



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/24/2378**

**Re: Property at 44B Queen Mary Avenue, Glasgow, G42 8DT (“the Property”)**

**Parties:**

**Mr Mian Muhammed Asif, Asif Centre 31-32 Multan Road, Chaburi Lahore, 54500, Pakistan (“the Applicant”)**

**Ms Louise Stewart, 44B Queen Mary Avenue, Glasgow, G42 8DT (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision**

At the Case Management Discussion (“CMD”), which took place by telephone conference on 2 October 2024, the Applicant was not in attendance but was represented by Mr Kenneth Lang of Mellicks, Solicitors, Glasgow. The Respondent was present.

The CMD was also in respect of the related case bearing reference FTS/HPC/EV/24/2375.

Prior to the CMD the Tribunal received from the Applicant’s representative emails dated 13 September and 1 October 2024.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-**

**Background**

The Tribunal noted the following background:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of an Assured Tenancy (“the Tenancy”) that commenced on 29 March 2015.
- iii. The initial term of the Tenancy was for the period to 28 March 2016.
- iv. The Tenancy continued thereafter on a year to year basis.

None of the foregoing matters were in dispute.

This application is for a payment order.

### **The CMD**

At the CMD the parties made the following oral representations:-

#### *Mr Lang for the Applicant*

- i. The monthly rent payable by the Respondent is £525. Mr Lang referred to the rectification proceedings previously raised before the Tribunal.
- ii. The rent arrears outstanding and due have reduced to £2360.
- iii. The term of the TSB mortgage over the Property has expired.
- iv. Aberdeen Considine on behalf of TSB have raised a Court action for repossession of the Property against the Applicant.
- v. The Applicant has to sell the Property.
- vi. The Applicant does not live in Scotland.
- vii. There is no interest clause in the Tenancy.

#### *The Respondent*

- i. The Respondent has been on the housing list with Wheatley Homes for the last 2 years.
- ii. She is registered with another housing association too.
- iii. She has to bid for houses that become available.
- iv. Having explained her situation she has been advised by the Homeless Unit that as long as she is paying her rent arrears and she still has housing, she will not be classed as homeless.
- v. Once an eviction order is granted she will take that to the housing office and that will speed up the application process.
- vi. She lives in the Property with her four children ages 14, 11, 9 and 1 years of age.
- vii. The Property has 3 bedrooms.
- viii. She has applied for a 3 or 4 bedroom house.
- ix. She is dealing with the local authority, Wheatley Homes and Cathcart Housing Association.
- x. There are not many properties with three or more bedrooms available.
- xi. She works part-time for Sky.
- xii. The rent arrears of £2360 stated to be due includes the rent due for October 2024 which is not payable until 29 October 2024.
- xiii. Rent arrears started to accrue in 2022. The Respondent was ready to leave the Property and had an oral agreement with the Applicant that she would not be charged certain sums but she accepted she never moved out so the arrears are due.
- xiv. She pays all her own rent.
- xv. The Respondent does not want to rent in the private sector. Prices there are "crazy".
- xvi. She would consider housing outwith her current local authority area.
- xvii. Her preference is to be rehoused by a housing association.

The Tribunal adjourned to consider the parties' submissions.

### **Findings in Fact**

The Tribunal made the following findings in fact:-

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of the Tenancy that commenced on 29 March 2015.

- iii. The initial term of the Tenancy was for the period to 28 March 2016.
- iv. The Tenancy continued thereafter on a year to year basis.
- v. The rent arrears outstanding and due are £1835.
- vi. There is no interest clause in the Tenancy.

### **Reasons for Decision**

The Respondent has been in rent arrears since late 2022. Lately she has reduced these considerably.

The Respondent accepted rent arrears to be due but suggested the October 2024 payment did not fall due until the end of that month. Whilst Mr Lang did not have instructions to concede the position he noted the terms of the Tenancy in terms of which rent is payable on the 29<sup>th</sup> of each month.

The Tribunal is clear that only £1835 of rent arrears is due.

In the absence of any interest clause in the Tenancy the Tribunal was not prepared to make any order for payment of interest on the rent arrears accrued.

### **Decision**

The Tribunal makes a payment order against the Respondent in favour of the Applicant in a sum of £1835.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Gillian Buchanan

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**Legal Member/Chair**

**2 October 2024**  
**Date**